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MEMO ENDORSED

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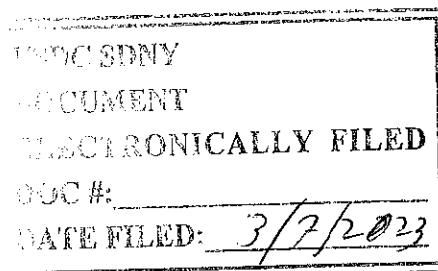
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March 1, 2023

VIA CM/ECF

Honorable Lewis A. Kaplan, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007



Re: *Cervecería Modelo de México, S. de R.L. de C.V., et al. v. CB Brand Strategies, LLC, et al.*, Case No. 1:21 Civ. 01317-LAK (S.D.N.Y.)

Dear Judge Kaplan:

Defendants write to object to Plaintiffs' continued attempt to proffer Dr. Shellhammer as an expert in this case and further object to his accompanying demonstratives, which are attached hereto as Exhibit A. This matter is of some urgency since Plaintiffs have notified Defendants that, despite the Court's February 28 ruling excluding Dr. Shellhammer (ECF No. 555 ("The motion is granted to the extent that proposed expert testimony of Dr. Shellhammer is excluded for the reasons stated in excluding that of Mr. Kallenberger and denied in all other respects as inappropriate for *in limine* determination."))), Plaintiffs intend to call him as a witness at trial tomorrow.

After the February 28 order was issued, Defendants contacted Plaintiffs requesting that Plaintiffs withdraw Dr. Shellhammer and his demonstratives. Plaintiffs refused (*see* Exhibit B), filed a letter with the Court claiming that the language "to the extent" in the Court's February 28 order left the door open for Dr. Shellhammer to testify, so he should be permitted to testify "concerning the brewing science and specific processes underlying the brewing of *beer* and contrasting those processes and ingredients with the manufacture of Corona Hard Seltzer." (ECF No. 557 (emphasis added).) Today at trial, Plaintiffs announced to the jury that Dr. Shellhammer may be testifying in this case (03/01/23 12:02 p.m. Trial Tr. 16:11-17-10).

Dr. Shellhammer has been excluded. The testimony that Plaintiffs claim remains following the February 28 order is exactly what Defendants moved to exclude because his "brewing processes opinions are inextricably tied to his inadmissible opinion on the supposed trade meaning

Denied as stated in open Court.
SO ORDERED


LEWIS A. KAPLAN, U.S.D.J.